

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

DEFENDANT'S STATEMENT
REGARDING NEED FOR AN EVIDENTIARY HEARING

Pursuant to the Court's Amended Procedural Order Re: Sentencing Hearing, the defendant states as follows:

1. On February 20, 2013 the government provided the Probation Office with a Statement of Facts for the Presentence Report for this matter.
 2. On March 21, 2013 the government provided the Probation Office with a Addendum to the Statements of Facts which recited certain new allegations by a witness, James McNichols.
 3. Together with the Addendum to the Statement of Facts, the government also provided a statement of interview in which the witness acknowledged that he had lied in certain previous statements.
 4. The Probation Officer incorporated the supplemental materials into the Presentence Report.
 5. Subsequently, the government provided the defendant with approximately fourteen (14) separate statements, interviews, and grand jury testimony.
 6. Undersigned counsel has reviewed each of these documents.

7. The witness acknowledges lying (his words) in some manner in approximately half of the statements.

8. Undersigned counsel is of the opinion that the witness continued that pattern of misconduct throughout his statements.

Consequently, if the Court wishes for sentencing purposes to consider crediting the allegations from this witness as recounted in the Presentence Report, then the defendant respectfully requests an evidentiary hearing.

Respectfully submitted,

By his attorney,

/s/ Thomas M. Hoopes
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June 10, 2013

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent by regular mail on this date to those indicated as non-registered participants.

/s/ Thomas M. Hoopes

Date: June 10, 2013